

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 295 OF 2005
IN
WRIT PETITION NO.1696 OF 2005

Indian Airlines Ltd. .. Petitioner
versus
Amit Kumar .. Respondent

...

Mr.S.M. Dixit with V.M. Parkar i/b Chhaya Shah for
the petitioner.

Mr.Mohan Bir Singh for the respondents.

CORAM : D.G. KARNIK, J.

DATED : 20th July 2005.

P.C.:

1. Heard learned counsel for the parties.
2. The services of the applicant who is the respondent in the Writ Petition were terminated by the petitioner. An application u/s.33(2)(b) of the Industrial Disputes Act 1947 (for short 'the Act')

made by the petitioner was rejected by the Industrial Tribunal by an order dated 19th August 2004. That order is impugned in the Writ Petition.

3. While admitting the petition and granting an interim relief, this Court by an order dated 6th May 2005 specifically permitted the respondent applicant herein to take out appropriate proceedings for grant of appropriate relief during the pendency of the petition. Accordingly, the applicant has taken out this motion for the purpose of awarding to him wages under section 17B of the Act.

4. Relying upon the decisions of the Calcutta High Court in SK. Samser Ali Vs. Kesoram Industries Cotton Mills Ltd. & Anr. reported in 1988 I CLR 60, Gujarat High Court rendered in Kirtiben B. Amin Vs. Mafatlal Apparels reported in 1995 II CLR 1065 and of the Andhra Pradesh High Court in V. John Vs. Singareni Collieries Co.Ltd. reported in 1996 I CLR 433, learned counsel for the applicant submits that the applicant is entitled to the wages u/s.17B of the Act. In the alternative and relying upon the decision of this Court in Air India Vs. P.K.Upadyaya & ors. reported in 1999 II CLR 276, learned counsel submits that assuming that section 17B in terms is

not applicable, the Court is entitled to direct the petitioner to pay wages to the applicant.

5. No affidavit in reply has been filed by the respondent. In view of the decisions of this Court in Air India Vs. P.K. Upadhaya (Supra), the petitioner is directed to pay a sum of Rs.4,880/- p.m. being the basic wages (excluding allowances) to the respondent applicant from the date of the motion i.e. May 2005 and continue to pay the wages at the aforesaid rate and till the disposal of the Writ Petition. Arrears shall be paid within 8 weeks and future payment shall be made on or before 10th day of the successive month.

6. Liberty to the applicant to apply for expedition of hearing of the Writ Petition.

D.G. KARNIK, J